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Grifco Interiors, Inc. and United Brotherhood of Carpenters and Joiners of America, Local 225.
Case 10-CA-30517

January 16, 1998

DECISION AND ORDER

BY MEMBERS LIEBMAN, HURTGEN, AND BRAME

Pursuant to a charge filed on September 18, 1997, the General Counsel of the National Labor Relations Board issued a Complaint and Notice of Hearing on October 22, 1997, alleging that the Respondent has violated Section 8(a)(5) and (1) of the National Labor Relations Act by refusing the Union's request to bargain following the Union's certification. Although properly served copies of the charge and complaint, the Respondent failed to file an answer.

On December 19, 1997, the General Counsel filed a Motion for Summary Judgment. On December 23, 1997, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint states that unless an answer is filed within 14 days of service, "all of the allegations in the complaint shall be deemed to be admitted to be true and shall be so found by the Board." Further, by letter dated December 1, 1997, the General Counsel advised the Respondent that if an answer to the complaint was not received by close of business on December 10, 1997, a motion for default judgment would be filed. Nevertheless, the Respondent failed to file an answer.

In the absence of good cause being shown for the failure to file an answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

The Respondent is, and has been at all times material herein, a Georgia corporation with an office and place of business located at Conyers, Georgia, where it is engaged in commercial and industrial drywall construction.

During the year preceding issuance of the complaint, a representative period, the Respondent purchased and received goods valued in excess of \$50,000 from suppliers within the State of Georgia, including Dierco Supply and Building Specialties, who in turn purchased and received goods valued in excess of \$50,000 directly from suppliers located outside the State of Georgia.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. The Certification

Following the election held June 12, 1997, the Union was certified on August 14, 1997, as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All carpenters and carpenters' apprentices employed by Respondent from its Conyers, Georgia facility, but excluding finishers, foremen, office clerical employees, guards and supervisors as defined in the Act.¹

The Union continues to be the exclusive representative under Section 9(a) of the Act.

B. Refusal to Bargain

About September 3, 1997, the Union, by letter, requested the Respondent to meet and bargain, and, since about the same date, the Respondent has failed and refused to do so. We find that this failure and refusal constitutes an unlawful refusal to meet and bargain in violation of Section 8(a)(5) and (1) of the Act.

¹ We take official notice of the "record" in the representation proceeding (Case 10-RC-14806) as defined in the Board's Rules and Regulations, Secs. 102.68 and 102.69(g); *Frontier Hotel*, 265 NLRB 343 (1982). As indicated in the Board's August 14, 1997 Decision and Certification of Representative in that proceeding, the Respondent failed to file timely exceptions to the Regional Director's report overruling the Respondent's objection to the election.

Conclusion of Law

By failing and refusing on and after September 3, 1997, to meet and bargain with the Union as the exclusive collective-bargaining representative of employees in the appropriate unit the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to bargain on request with the Union, and, if an understanding is reached, to embody the understanding in a signed agreement.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by the law, we shall construe the initial period of the certification as beginning the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); *Lamar Hotel*, 140 NLRB 226, 229 (1962), *enfd.* 328 F.2d 600 (5th Cir. 1964), *cert. denied* 379 U.S. 817 (1964); *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), *enfd.* 350 F.2d 57 (10th Cir. 1965).

ORDER

The National Labor Relations Board orders that the Respondent, Grifco, Interiors, Inc., Conyers, Georgia, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain with United Brotherhood of Carpenters and Joiners of America, Local 225, as the exclusive bargaining representative of the employees in the bargaining unit.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive representative of the employees in the following appropriate unit on terms and conditions of employment, and if an understanding is reached, embody the understanding in a signed agreement:

All carpenters and carpenters' apprentices employed by Respondent from its Conyers, Georgia facility, but excluding finishers, foremen, office clerical employees, guards and supervisors as defined in the Act.

(b) Within 14 days after service by the Region, post at its facility in Conyers, Georgia, copies of the at-

tached notice marked "Appendix."² Copies of the notice, on forms provided by the Regional Director for Region 10 after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since September 3, 1997.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. January 16, 1998

Wilma B. Liebman, Member

Peter J. Hurtgen, Member

J. Robert Brame III, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain with United Brotherhood of Carpenters and Joiners of America, Local 225, as the exclusive representative of the employees in the bargaining unit.

²If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the bargaining unit:

All carpenters and carpenters' apprentices employed by us from our Conyers, Georgia facility, but excluding finishers, foremen, office clerical employees, guards and supervisors as defined in the Act.

GRIFCO INTERIORS, INC.